

IN RE: PETITION FOR ZONING VARIANCE
SW/S Riverview Road, 109' NW of
the c/l of Back River Neck Road
(431 Riverview Road)
15th Election District
5th Councilmanic District
Calvin J. Goeller, et ux
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 89-400-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit side lot line setbacks of 10 feet and 23 feet in lieu of the required 50 feet, and an existing accessory structure (garage) to be located in the front yard in lieu of the required rear yard, as more particularly described in Petitioner's Exhibit 1.

The Petitioners appeared, testified, and were represented by William Monaghan, Esquire. Also appearing on behalf of the Petition was Robert Spooner, Contractor. There were no Protestants.

Testimony indicated that the subject property, known as 431 Riverview Road, and also known as 2210 Riverview Road, consists of 14,212 sq. ft. zoned R.C. 5 and is located within the Chesapeake Bay Critical Areas on Back River. The property is currently improved with a dwelling from approximately the 1920s that was originally used as a summer home, and a garage which is located in the front yard. Petitioners purchased the property in June 1988 and now propose razing the existing dwelling to construct a new two story dwelling. Testimony indicated the variances are required due to the size of the lot, which was recorded prior to the zoning regulations not permitting a viable dwelling be built on the property without a variance. Petitioners argued that the granting of the variances will permit them to construct a home in compliance with critical areas

legislation and storm water management requirements. Petitioners further testified that the garage has existed in its present location since the late 1940s or early 1950s. To require strict compliance with the zoning regulations would cause unreasonable hardship upon them without any benefit to the community. Petitioners testified they spoke with the Back River Neck Peninsula Community Association who indicated they had no objections to their request.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based

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upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

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THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of April, 1989 that the Petition for Zoning Variance to permit side lot line setbacks of 10 feet and 23 feet in lieu of the required 50 feet and an existing accessory structure (garage) to be located in the front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition; and,
- 2) Petitioners shall comply with all requirements of the Zoning Plans Advisory Committee as set forth in their comments submitted hereto, including, but not limited to, the Bureau of Water Quality and Resource Management comments dated February 7, 1989.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated February 16, 1989, attached hereto and made a part hereof.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

RECEIVED
FEB 21 1989
ZONING OFFICE

TO: Mr. J. Robert Haines
Zoning Commissioner
DATE: February 16, 1989
FROM: Mr. Robert W. Sheesley
SUBJECT: Petition for Zoning Variance - Item #321
Calvin J. Goeller Property - Lot 15 Riverview Road

The subject property is located along Riverview Road and Back River Neck Road in the Holly Farm Beach Subdivision, Lot 15. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area.

The applicant has requested a variance from Section 1A04.3.B.3 and 400.1, "to permit side lot line setbacks of ten feet and 23 feet, and an accessory structure (existing garage) in the front yard in lieu of the required 50 feet and rear yard, respectively" of the Baltimore County Zoning Regulations.

The proposed development will cover 12% of the site with impervious surface.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01 O.>

The proposed development will comply with Critical Area Law provided that the zoning petition is conditioned with the following requirements:

1. Three major deciduous trees or six conifer trees shall be planted and maintained on the lot. A combination of these two

Memo to Mr. J. Robert Haines
February 16, 1989
Page 2

- tree types is acceptable provided that 3,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.
2. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.
3. Rooftop runoff shall be directed through down-spouts and into a dry well of approved design to encourage maximum infiltration (see attached dry well design).

Upon compliance with the above requirements, this project will be approved. Please contact Mr. David C. Flowers at 897-3980 if you require additional information.

Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

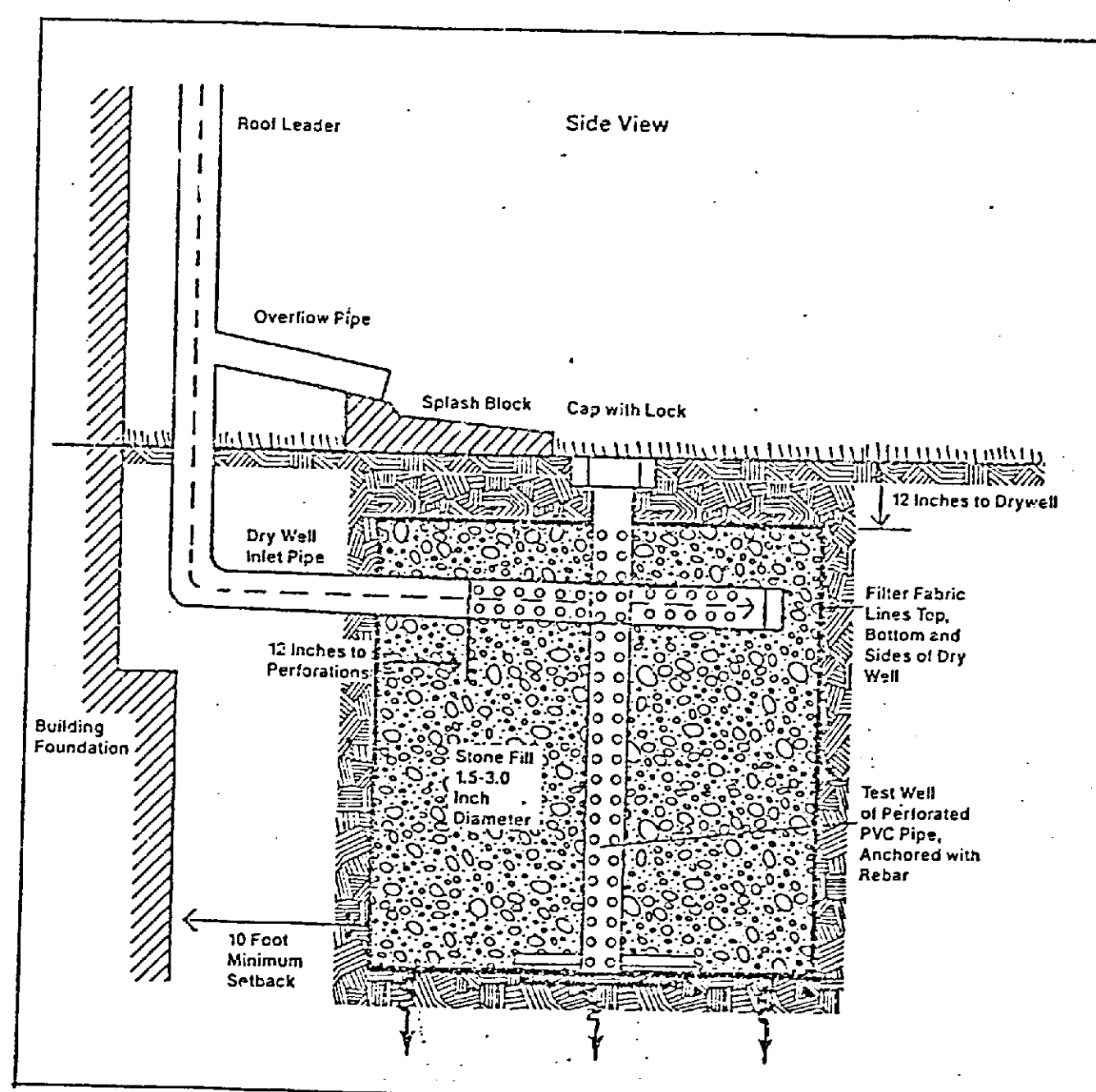
RWS:DCF:tjg
Attachment

cc: The Honorable Ronald B. Hickernell
The Honorable Norman W. Lauenstein
The Honorable Dale T. Volz
Mr. David C. Flowers

DESIGN 4:

Dry Well Designs. (Figure 5.8). Dry wells are a basic trench variation which are designed exclusively to accept rooftop runoff from residential or commercial buildings (Figure 5.8). Additional guidance on dry well design is available from Md WRA (1984). Basically, the leader from the roof is extended into an underground trench, which is situated a minimum of ten feet away from the building foundation. Rooftop gutter screens are needed to trap any particles, leaves and other debris, and must be regularly cleared.

Figure 5.8: Dry Well Design (adapted from Md WRA, 1985)



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

April 7, 1989

William F. Monaghan, II, Esquire
501 Furnace Branch Road
Glen Burnie, Maryland 21061

RE: PETITION FOR ZONING VARIANCE
SW/S Riverview Road, 109' NW of the c/l of Back River Neck Road
(431 Riverview Road, also known as 2210 Riverview Road)
15th Election District - 5th Councilmanic District
Calvin J. Goeller, et ux - Petitioners
Case No. 89-400-A

Dear Mr. Monaghan:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel

File

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building
Towson, Maryland 21204
494-3554

March 1, 1989



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dennis F. Rasmussen
County Executive

Dear Mr. Haines,

The Bureau of Traffic Engineering has comments for items number 290, 297, 298, 309, 310, 311, 315, 317, 319, 320, 321, & 323.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Assoc. II

MSP/lab

89-409-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
21st day of February, 1989.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: Calvin J. Goeller, et ux
Petitioner's Attorney: Seymour R. Goldstein
Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reinecke
Chief

February 14, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Towson, Maryland 21204

Re: Property Owner: Calvin J. Goeller
Location: SW/4 of Riverview Road, 109' NW from the
centerline of Back River Neck Road

Dennis F. Rasmussen
County Executive

Item No.: 321 Zoning Agenda Meeting of February 7, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans r.e. approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Paul H. Reinecke* 2-15-89
FLUORINE GROUP
Special Inspection Division

NOTED & APPROVED: *Robert J. Brady*
Fire Prevention Bureau

/s/

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 15, 1989

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

Seymour R. Goldstein, Esquire
20 W. Chase Street
Baltimore, MD 21201

RE: Item No. 321, Case No. 89-400-A
Petitioner: Calvin J. Goeller, et ux
Petition for Zoning Variance

Dear Mr. Goldstein:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 687-3391.

Very truly yours,

James E. Dyer, Jr.
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Calvin J. Goeller

BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND RESOURCE MANAGEMENT

2/2/89
Date

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 321, Zoning Advisory Committee Meeting of February 7, 1989

Property Owner: Calvin J. Goeller, et ux

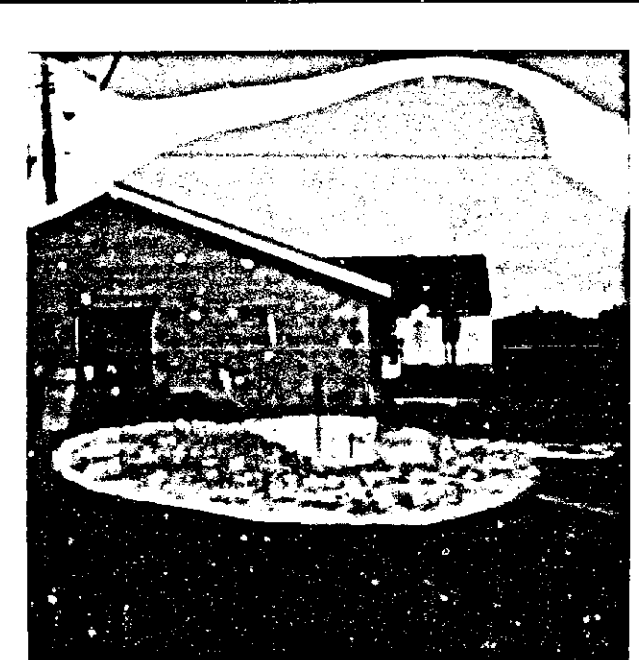
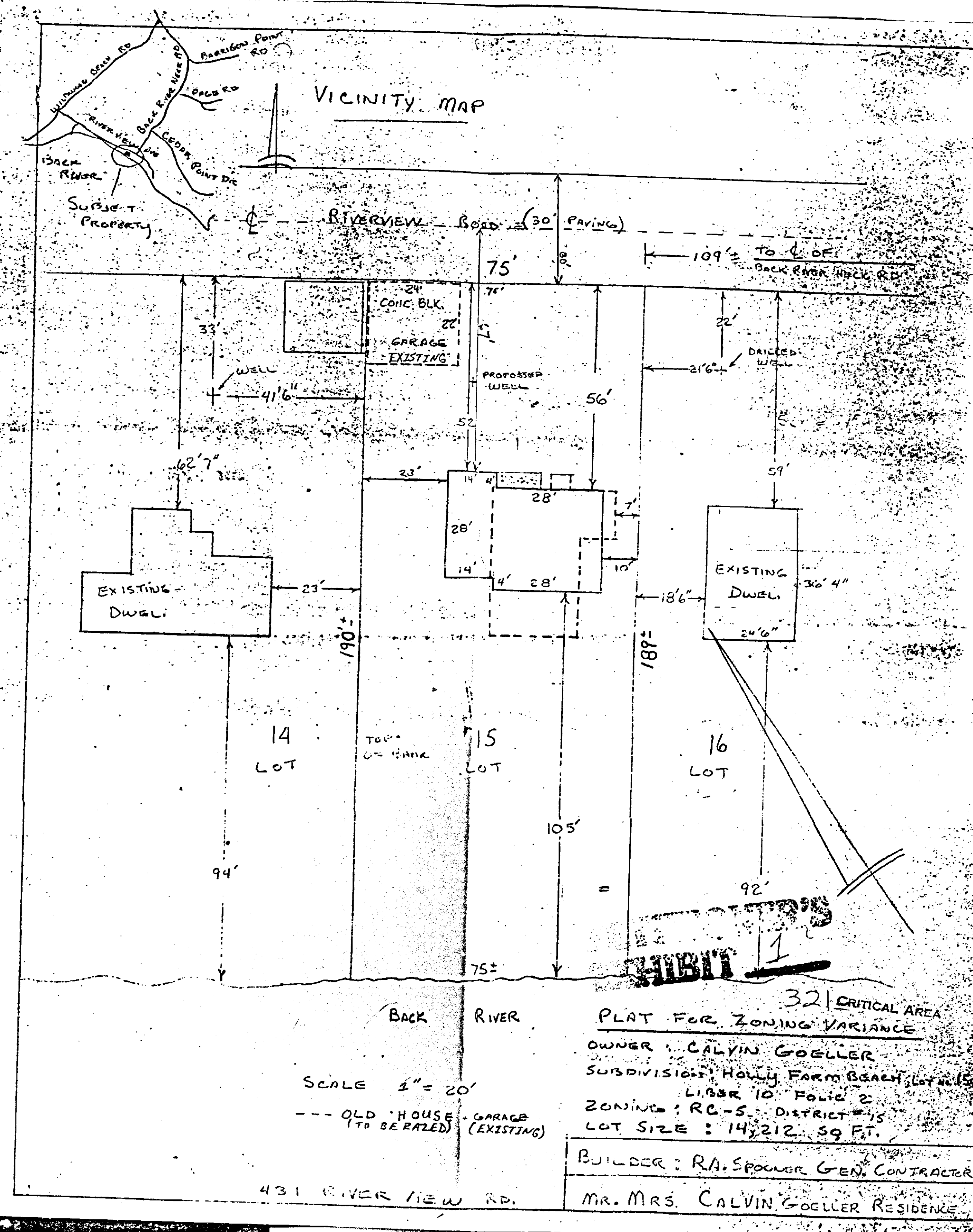
Location: SW/4 of Riverview Road District: 15

Water Supply: Private Sewage Disposal: private

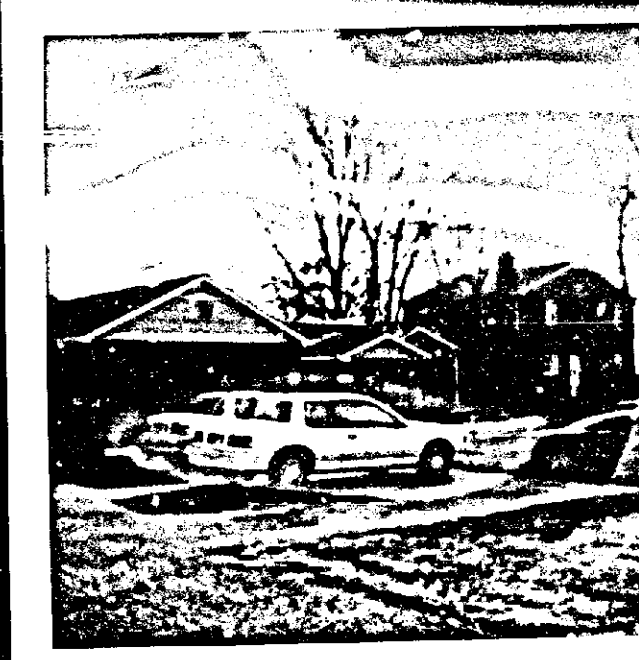
COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.
- () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins.
- () A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Bureau of Air Quality Management is required for any charbroiler generation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 687-6500 x 315.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.
- (X) Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 887-3775.
- () Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 887-3745.
- () Soil percolation tests, have been _____, must be _____, conducted.
 - () The results are valid until _____.
 - () Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.
- (X) Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test
 - () shall be valid until _____.
 - () is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.
- (X) Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management at 887-3980.
- () In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2702.
- (X) Others Existing well and sewage disposal system must be properly maintained and backfilled. Sewage disposal system for new home must be constructed per specifications from this office.

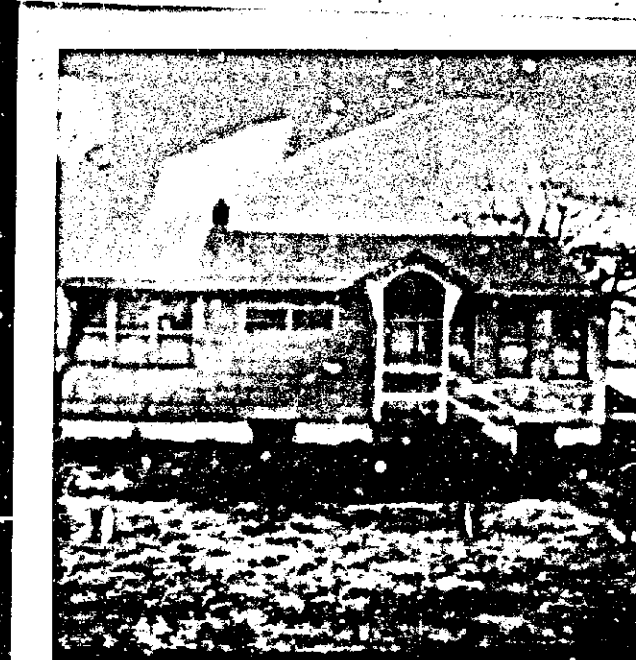
John J. Brady
BUREAU OF WATER QUALITY AND RESOURCE
MANAGEMENT



VIEW FROM OUR GARAGE
OF 2211 RIVERVIEW



2312 RIVERVIEW



* 2210 RIVERVIEW RD



2316 RIVERVIEW



2300
RIVERVIEW